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JOHNS HOPKINS UNIVERSITY STUDIES
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HERBERT B. ADAMS, Editor

History is past Politics and Politics present History.— *Freeman*

FIFTH SERIES

I-II

THE CITY GOVERNMENT OF PHILADELPHIA

By EDWARD P. ALLINSON, A. M. and BOIES PENROSE, A. B.
Of the Philadelphia Bar

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TABLE OF CONTENTS.

	Page.
Introductory	7
Analysis of the Subject	9
First Period, 1681–1701	10
Evidence of Organized Local Government prior to 1701	11
Second Period, 1701–1789. *Penn's Charter*	14
Character of Penn's Charter	15
Integral Parts	17
Judicial Functions	19
Councilmen	19
The Freemen	21
Miscellaneous Provisions	22
Revenue	22
Legislative Provisions for Independent Commissions	24
Streets	25
Police	26
Water	27
Poor	27
Fire Department	27
Party Walls	28
City Officers	28
Ferries	29
Markets	29
Courts	29
The Revolution	31
Third Period, 1789–1854	33
Change Effected by Act of 1789	34
The Mayor	35
Councils	36
Assumption of Executive Power by Councils	37
Government by Committees	37
Elective Franchise	38
City Commissioners	39
Highways	40

PAGE.

Gas 41
Education and Charities 42
Police 42
Finance 44
Review of the Third Period 47

Fourth Period, 1854–1887 48
City Controller 50
Gas and Water 51
Police 52
Poor 52
Port Wardens and Board of Health 52
Fairmount Park 53
Trusts and Charities 53
Public Buildings Commission 53
Education 54
Relation of City and County 54
Finance 55
Estimating Expenses 55
Collection of Taxes 55
Board of Revision of Taxes 56
Expenditures 57
"Pay as You Go" Act of 1879 58
Contracts 59
Sinking Fund 59
The Reform Movement 61

Fifth Period, 1887. *The Bullitt Bill* 65
Act for the Better Government of Cities of the First Class, &c. 66
Department of Public Safety 67
Department of Public Works 67
Department of Receiver of Taxes 67
Department of City Treasurer 68
Department of City Controller 68
Department of Law 68
Department of Education 69
Department of Charities and Correction 69
Sinking Fund Commission 69
Appointments of Officers, Clerks, &c. 69
Impeachment 70
Contracts 70
General Provisions 70
Conclusion 71

CORRECTIONS.

Page 15—Fourth line from the bottom, for "votes" substitute *voters*.

" 24—Eighth line from bottom, for "six" substitute *eight*.

" 28—Fourth line from bottom of *note*, for "corporal" substitute *corporate*.

" 44—Second paragraph: Since this paper was written, the act under which a new division of the city was made in 1885 has been declared unconstitutional by the Supreme Court, and the old division of wards, voting precincts, and assessment districts has been restored. There are, therefore, at the present time, 25 wards, 107 voting precincts, and 33 assessment districts. Two of the wards are smaller than the others, and are together entitled to only three representatives in the common council. The whole number of the present members of the council is, therefore, correctly stated as 72.

" 45—Add to note concerning qualifications of voters: "Women possessing the qualifications above named have a right to vote for members of local school committees."

" 47—First line of second paragraph, for "thirty-four" substitute *twenty-four*.

" 53—Twentieth line from the top, for "had" substitute *have*.

" 53—In the note it should perhaps have been stated that Norfolk County, as originally constituted, included a part of what is now New Hampshire, and a part of the present county of Essex. The original organization ceased to exist in 1680. The present county was incorporated in 1793, and included, as stated, towns to the *south* of Suffolk.

THE CITY GOVERNMENT OF PHILADELPHIA.[1]

FROM the first of April, 1887, the municipal government of Philadelphia will be administered under a new charter, the fourth in historical sequence, generally known to local fame as the Reform Charter,[2] or Bullitt Bill. It is claimed by its friends that this charter is the most advanced step toward the scientific government of great cities yet made.

For a full understanding of its advent, the causes which called it into being and the remedies for present evils which it purports to bring, one must be somewhat familiar with the continued history of the City Government from the earliest times, for the story of the Bullitt Bill goes back to the landing of Penn and the founding of the city.

While there are numerous works on the history of Pennsylvania and Philadelphia, general and special, treating of both

[1] A Paper read before a special meeting of the Historical Society of Pennsylvania, November 22, 1886, representing the result of investigations made by Edward P. Allinson, A. M., and Boies Penrose, A. B., in preparing a volume on the subject for the Extra Volume Series of the Johns Hopkins University Studies.

[2] Strictly speaking, acts of the Legislature are not charters in the legal sense of the term. A charter is a contract or grant non-revocable at the pleasure of the grantor, while all acts incorporating towns or cities may be altered or revoked at the pleasure of the Legislature. The term, however, is conventional, and is so used.

earlier and later times, nowhere is there to be found any history of the city of Philadelphia considered strictly in relation to its evolution and growth as a municipal corporation.

As the result of what we believe has been a laborious and exhaustive examination of all the evidence now available, we venture to present a condensed review in which are marshaled the salient features of the municipal history of our great city. Tempting though we have often found it, we have rigidly denied to ourselves any comment on what may be called the extra-municipal story and influence of Philadelphia, picturesque and potent as these have often been. The records of over two hundred years of municipal life present such a cloud of witnesses, demanding a hearing with such imperative fervor, that lay history, even when intimately bearing on the main question, has had to be passed by in silence; although, perhaps, there has been thereby a loss of color and even of perspective.

We shall, in these pages, avoid the puerile error of complaining of the wickedness and corruption of professional politicians. It is very common to speak of that class as something outside of and apart from the ordinary citizen. The laws which govern human nature are, in the long run, just as certain as those of mathematics and the physical sciences; they admit of the possibility of more occasional elasticity, but in the end are as rigidly binding. The politician, professional or otherwise, follows the stamp of his age; he is just what his age or his environment demands or permits, neither better nor worse. The rules of his morality may differ from those of the clergyman or the merchant, but it weighs about as many ounces to the pound, and we are inclined to think that, from his intimate acquaintance with human nature, he gives better weight. We have indulged in this preamble because we consider it involves a truth often lost sight of, and because we wish any criticism hereafter made to be understood as applied rather to the system than the actors.

Any plan of government which ignores the peculiar manifestations of human nature, as exhibited in a particular time

or place, must in a corresponding degree prove a failure. The best plan is that which, founded on experience, makes due allowance for the necessary weakness as well as the general integrity of humanity, and grasps every chance of enlisting its better elements, which are always sufficient when called into activity. The trouble is not so much to care for emergencies; any people when stirred to its depths will take good care of itself; but it is to be looked for in the every day, prosperous times, when the Muse of History has to emigrate to find employment. The most potent factors, which the lawgiver must keep always in sight, are the indifference and selfishness of the so-called better class of citizens. In formulating a city government we must calculate on the indifferent watchfulness of the ordinary citizen in ordinary times. We should therefore endeavor to enlist the love of gain, of power, of fame, on the side of the public weal, and to do this we must make an honest public life systematically easy as well as possible to a professional politician. Even as it is, the practical politician is a useful citizen; he is shrewd, far-sighted, tireless and often honest, as this world goes; but practical men as a class never work continually for nothing or simply for abstract patriotism. We must have the possibility of certain, reasonably compensated, honorable continuance in public service if we expect that service to be honestly devoted to the public weal, and finally we must have executive power and responsibility so centred as to be quickly and definitely accountable to the public will if maladministered. Let us see how far the life of municipal Philadelphia has conformed itself to these cardinal laws.

Analysis of the Subject.

The life of the City of Philadelphia divides itself into five sharply-defined periods:

I. First period from 1681–1701.
   This era of 21 years covers the period prior to the first or proprietary charter.

II. The second period, 1701–1789.
This era covers the life of the proprietary charter, which fell with the Revolution, and the thirteen subsequent years of suspended municipal life.

III. Third period, 1789–1854.
For nearly three-quarters of a century what is now known as the old city grew and prospered under the legislative charter of 1789 and the divers acts amendatory thereof and supplementary thereto, up to the Act of February 2, 1854, known as the Consolidation Act, when the city and county were merged.

IV. Fourth period, 1854–1887.
During this period Philadelphia has staggered, in common with other great cities, under a burden of laws, ordinances, customs and practices often resulting in legislative and executive maladministration.

V. Fifth period, 1887–
Is that of full development, as shown in the complete application of the Reform Charter.

FIRST PERIOD, 1681-1701.

When Penn landed on the shores of the Delaware in 1682, he came armed with quasi-regal power and found English institutions and laws engrafted on, and somewhat modified by, Dutch and Swedish customs; but his beloved city was settled on virgin soil, and presented a white page for legislation. The city, after the site had been twice purchased from the Swedes and Indians, was laid out under William Markham, Penn's Lieutenant-Governor, by Thomas Holme. The land which was to form the Province of Pennsylvania and its territories passed into the hands of the Proprietor by royal charter and deed of confirmation from the Duke of York, under whose rule it had been for some years, and the colony formed one of the three proprietary governments.

By Section 10 of the Royal Charter Penn was authorized "to divide the country into towns, hundreds and counties, and

to erect and incorporate towns into boroughs and boroughs into cities, and to make and constitute fairs and markets therein." The scheme of government entered into between Penn and the adventurers contemplated the foundation of a city; and an allotment of city lots was made to each original purchaser of land in the Province. This town or city was laid out, as we see, by Penn's agent, Markham, before Penn's arrival, and received the name of Philadelphia. The Province was divided into three counties—Philadelphia, Chester, and Bucks—which, together with the three lower counties of the territories, (Delaware), made up the division of Penn's domain.

Under the Duke of York we find the township the political unit, although not in the integrity established in New England. Under Penn, however, we must, from the beginning of his rule, look to the county as the unit. In the absence of complete records of this period regarding many details of administration, this fact, if kept in mind, will save us from embarrassment and enable us to predicate certain conclusions with reasonable assurance, which otherwise we could hardly infer with certainty. Especially true is this in fixing the date of the birth of Philadelphia as a municipal entity.

By Penn's Frame, Section 10, it is provided "that the Governor and Council shall at all times settle and order the situation of cities, ports and market-towns in every county."[1] The boundaries of the city were fixed as follows: From what is now Vine street, on the north, to what is now South street, on the south, along the Delaware river nearly a mile in front or breadth on said river, and westward about two miles between said streets to the River Schuylkill.[2]

Evidence of Organized Local Government Prior to 1701.

When Penn arrived at Philadelphia, most of the people were living in caves on the banks; but a number of houses

[1] Duke of York's Laws, p. 95.

[2] Holme's Map of Philadelphia.

were soon erected, and, in the minutes of the Provincial Council and Acts of Assembly, we read constantly of the "town of Philadelphia" or the "city of Philadelphia." But obviously these terms may have had no significance apart from the designation of a more thickly-settled spot laid out and surveyed for a town, and established as a port and market. The use of the term city implies potential rather than actual attributes.

On the other hand Acrelius, in his New Sweden, p. 112, published in 1712, speaks of Philadelphia having received its first charter in 1682, but our investigation leads us to think this a mere dictum, or very probably a reference to Penn's charter to the colonists of that date. The records of the Provincial Council, under date of 5 mo., 26, 1684, have the following minute: "Thos. Lloyd, Thos. Holme, Wm. Haigue, appointed to draw up a charter of Philadelphia, to be made a Borough, consisting of a Mayor and six Aldermen, and to call to yr. assistance any of ye council." This was before Penn's departure. There is no record that this committee ever acted. Prior to this, in 1684, a bill passed second reading in the council providing for "3 members for ye council and 6 for ye assembly from ye city of Philadelphia," but there is no record of a third reading or co-ordinate action by the assembly, and evidence is wanting as to any member sitting for the city as distinct from the county. Whether the town was really made a borough, as thus indicated, is not clearly shown, but there is undoubtedly evidence of some sort of government existing in 1691, but how organized or created does not clearly appear. The minutes of the Provincial council for 1691 and 1692 are lost or destroyed, but the office of Recorder of Deeds shows, in the nature of perpetuated testimony, the proceedings of the citizens of Philadelphia in 1753 to secure the dedication of the Blue Anchor landing for public use forever. These proceedings[1] recite the minutes of the Provincial Council as being

[1] D. B. H. No. 7, p. 92. Penn. Hist. Magazine for April, 1886, p. 61.

then extant, and recite the reference of these minutes to the action of Humphrey Murrey, "the present Mayor of the City of Philadelphia," and speak also of the "Mayor and Aldermen." In Penn's charter of 1701, creating the City Corporation, he says: "I have by virtue of the King's Letters Patent . . . erected the said town into a borough and do by these presents erect the said town and borough into a city, &c." From the weight of the evidence, then, we can safely infer that there must have been some local authority exercised prior to 1701; but the interest therein is mainly historical, for the traces thereof are vague and shadowy, and the corporation of that date seems to have been a new creation rather than an evolution of any local growth or customs of the infant town.

Up to that time there was hardly room and no imperative demand, in the nature of things, for any clearly outlined municipal life, apart from the autonomy of the county. The period when each settler was supposed to have a town lot had hardly been outgrown, and there is considerable evidence to show that Penn had conceived the idea of having all settlements cluster around a town which was to supplement the outlying farms, although this idea was quickly given up. The entire machinery was based on the county as the unit. County judges appointed by Penn, assisted by the grand jury, provided for much of the primitive local administration; they levied and collected the taxes, laid out roads, other than King's highways, which fell to the Council, and provided the meagre local administration necessary to the primitive wants of a people to whom governmental functions came as a public tax or duty to be avoided rather than sought. The township and town meeting had no existence as we see them in New England. The Provincial Council had wide powers jointly with the Proprietor when present, representing him when absent. It sat as an Orphans' Court, a Court of Appeals, a Privy Council, a Senate; it proposed all bills to the lower house, tried old women for witchcraft and young men for drunkenness; passed regulations to punish negroes who disturbed the

peace by gadding about the streets; took cognizance of defective drains, grading, market regulations, the size of bakers' loaves, and divers other kindred minutiæ which in New England would have been within the province of the town meeting.

The proceedings of the public meeting, above referred to as discovered in the office of the Recorder of Deeds, antiquated and forgotten as they are, have considerable historic value, and they may at least be taken as evidence that some sort of organization existed among the citizens, whether formally delegated by the Proprietor or assumed by themselves. That officers known as Mayor and Aldermen did then exist is certain, but it is very curious that there should not remain some direct or incidental allusion to a municipal organization if such existed, because the proceedings of that time, while primitive in one sense, were very formal in all creative details, and the authority of the Proprietor was ample and unquestioned, and his prerogatives carefully guarded. We must, therefore, conclude that such organization as existed must have been of fugitive duration or of very limited powers.

SECOND PERIOD, 1701-1789. PENN'S CHARTER.

The charter of 1701, it may be fairly said, introduces the municipality of Philadelphia as a well-defined corporate entity. It was granted by the proprietor just before he left the Province on his second and last visit. While there is little or no record of the moving cause for such action, yet even at this distance sufficient motive is not difficult to imagine; the actual and potential importance of the place was great and the need of some sort of well-defined local government, apart from that of the Province, must have been obvious to the methodical Quaker. This charter signed and published by Penn, October 25, 1701, is worthy of careful study, not only as a chart under which Philadelphia affairs were conducted for seventy-five years, but also as contem-

porary evidence of the then accepted notion of a municipal corporation by which even such a liberal and far-sighted statesman as Penn was ruled in formulating the scheme of government for his town which he had faith would become a great city.

As has been noted, this charter was granted by virtue of the authority conferred upon Penn by the royal charter. The charter of 1701 differs from subsequent ones in this important particular, that the former was created by the grant of the proprietor and the latter by act of Legislature. While the Legislature as the ultimate sovereign authority may grant such powers as it chooses, the King or his delegated agent, the proprietor, was restricted in many ways. He could not incorporate a community without its consent; and while he might confer the usual powers of a municipality he could not grant extraordinary powers out of the course of the common law, as power to punish by forfeiture or imprisonment, or an exclusive right of trading.[1]

Character of Penn's Charter.

In accordance with these principles, Penn's charter resembled in its outlines a typical constitution of an English town such as prevailed from the close of the middle ages to the Reform Act of 1835. A close corporation is constituted under the name of "The Mayor and Commonalty of the city of Philadelphia," consisting of a Mayor, Recorder, eight Aldermen, and twelve Common Councilmen, and possessing the five usual powers of a corporation. The first corporate officers were appointed in the charter. The Mayor was elected annually from the Aldermen, by at least five of the Aldermen and nine Common Councilmen, the Mayor or Recorder being present. When so elected he had to be presented to the Governor to be accepted. The Recorder,

[1] Dillon, 2d ed., Vol. I, p. 108.

Aldermen, and Common Councilmen, held office for life. The corporation might add to their number from time to time.

The important characteristic of such a charter from which many legal consequences followed was that, strictly speaking, the corporation proper was not the place or inhabitants, but a close self-elected corporate body, existing, as it were, independently of the community in which it was constituted, and possessing certain powers to govern the inhabitants. This constitution was reached by the boroughs of England after many years, in consequence of the dislike on the part of the authorities of popular elections, and, more especially, in consequence of the intrigues of the crown to control the election of the burgesses to Parliament. The franchise of returning members to Parliament was granted to a great number of towns about the time of Edward the First; and from that time they obtained great political importance. At first, to strengthen itself against the barons, the crown encouraged popular elections, until, perceiving it had a more formidable opponent to its powers, it began to assume a different policy and to endeavor to secure the return of its own creatures by discouraging popular elections of the municipal magistrates, and raising a sort of burgher aristocracy. In Elizabeth's reign the judges, upon the application of the privy council, determined that from usage, within time of memory, a by-law may be presumed as restraining to a select body the right of election of the principal corporators, though vested by the ancient constitution in the general assembly of the freemen. In the reign of James I. they went still farther and determined that the King could, by his charter, incorporate the people of a town in the form of select classes and commonalty and vest in the whole corporation the right of sending representatives to Parliament, restraining the exercise of the right to the select classes; and this was the form of all the new corporations. Charles I. was dethroned by the power of corporate representation, then at its height, while the Protector unable to cope with them expelled them from the house. In the reign of Charles II. the famous *quo warranto* proceedings to repeal

the charters of the obnoxious corporations on pretence of forfeiture were brought; judgment was given against London and the charter forfeited. Such consternation was spread among the other towns that most of them let judgment go by default or surrendered their charters and received new ones in return. Although the old charters were restored in the succeeding reign, the select classes, unwilling to relinquish their power and supported by the royal party and the decisions of the courts, retained in their grasp the municipal power, and by this means prevented the restoration of popular elections until the Municipal Reform Act of 1835. The charter of Philadelphia was granted during the reign of Charles II., subsequently to the *quo warranto* proceedings just referred to. This was the period in which the liberties of the borough were most oppressed and the crown most active in attempting to restrain popular elections. Granted in such a period, it is not surprising to find the first charter of Philadelphia marked by many illiberal features compared with the modern idea of municipal privileges, or compared with the usually enlightened policy of Penn.

Integral Parts.

The Mayor, Recorder, Aldermen, and Common Councilmen composed what was known to the writers of the day as the integral parts. The Mayor was the head of the corporation, and at common law as well as by the charter his presence was essential to the despatch of corporate business. It was his duty, with the Recorder and at least three aldermen, to summon a corporate meeting as they saw occasion, and to preside at such meeting,[1] but he had neither by charter nor common law a veto or casting vote.

Any citizen elected as one of the integral parts was liable to fine upon refusal to serve, but such was the expense and labor,

[1] Willcock on Corporations, p. 103.

incident to the office of Mayor, that frequently persons so elected preferred to pay the fine rather than accept. At the expiration of his year of office, it was the custom of the mayor to give an expensive banquet to the members of the corporation, a custom which many of the later mayors abandoned, and, instead, presented the city with an equivalent amount of money.[1] At first no salary was paid, and with the growth of the city the difficulty of getting a proper person to serve increased. At length, in 1747, a salary of one hundred pounds was granted; and although three years afterward the the salary was abandoned, it was subsequently revived.[2] In case of misconduct the Mayor might be removed by the Recorder and at least five Aldermen and nine Common Councilmen; in case of such removal or death, another person was to be chosen within four days, and in the interval the eldest Alderman acted as Mayor. Besides his duties under the charter the Mayor, from time to time, had additional duties imposed upon him by councils. Thus he is appointed City Treasurer; he is ordered once every month to inspect the bread bakers and to seize and dispose of all bread found deficient in weight, according to law.

The Recorder ranked next to the Mayor. The duties of this ancient office are described in Bohun's *Privilegia Londini*,[3] where it is said that the Recorder was "one skillful in the laws and customs of the city, and was chief assistant to the Mayor & Aldermen for their better direction for administering law & justice. And being the mouth of the City he learnedly delivers the sentences and judgments of their Court." His qualifications are thus set down in the book called *Liber Albus:* "He shall be one of the most skillful and virtuous apprentices of the law in the whole Kingdom. He is to sit on the right hand of the Maior in recording pleas and passing

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[1] Minutes of C. C., pp. 463, 511.
[2] Minutes of C. C., pp. 480, 485, 511, 666.
[3] Page 63.

judgments. The Maior & Aldermen set forth all the custom and business touching the City before the King and Council as also the King's court by Mr. Recorder as a chief man endued with wisdom and eminent for eloquence." We have to look to the common law for the qualifications of the Recorder of Philadelphia, as his duties are nowhere set out in detail, but he seemed to be the legal adviser and mouthpiece of the city and drew up the ordinances and contracts. He was elected by the corporation and held office for life, but might be removed for cause by the Mayor and two-thirds of the Aldermen and Councilmen. The Aldermen held office for life by common law and by the charter. They did not represent any ward or precinct. The important distinction between them and the Common Councilmen was the judicial power of the former, and this leads us to a consideration of the judicial functions of the corporation which constituted a peculiar part of the power in the municipalities of that day.

Judicial Functions.

The Mayor, Recorder, and Aldermen were appointed by the Charter Justices of the Peace and Justices of Oyer and Terminer. This custom of appointing municipal magistrates justices of the peace by charter began much earlier than the reign of Richard II.[1] They had both civil and criminal jurisdiction within the city and liberties. The Mayor and Recorder were further of the quorum of the justices for the county.

Councilmen.

The Councilmen held office for life, and did not represent any ward or district. Common Councilmen were not recognized by the common law as a select body. They may be said to have been the faint vestige of the ancient liberties once enjoyed by the freemen of the boroughs.

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[1] Report of English Municipal Coms., p. 17.

Boroughs existed in England from the earliest period. The burgesses were the permanent free inhabitants, performing the duties and enjoying the privileges as the free inhabitant householders, paying scot and bearing lot, presented, sworn, and enrolled in the court list.[1] The first charter of incorporation was granted by Henry VI., and it superinduced upon the original character of burgesses that of corporators also. The Common Council or corporate meeting consisted of the definite classes and as many of the indefinite class as chose to attend, without any other qualification but that of being freemen, and such a common council was incident to all corporations of common right, unless otherwise regulated by charter.[2] But this right of the commonalty to form part of the Council or town meeting was gradually lost by the usurpation above alluded to, till its restoration in later times in a modified form. At all events the freemen as such had no voice in the Common Council of Philadelphia. The Assembly of the Integral Parts of the corporation in a corporate meeting for the transaction of business, was called the Common Council. The meetings were convened at the call of the Mayor, Recorder, and three Aldermen. Their procedure when so convened was simple. There were no standing committees in the modern acceptance of the term. When a public necessity arose requiring legislation, it was "ordered" by councils that an ordinance be drawn, and the Recorder or a committee consisting of a few of the Aldermen were appointed to draw up an ordinance and report at a subsequent meeting. Frequently a second committee would be appointed to act on the report of the first.

The ordinances were published, if at all, upon single broadsides, and no accurate record was kept of them. That none of them are extant to-day is not surprising, as appears from the records of the minutes of the Common Council, of which this is an instance: "Alderman Coxe proposed that there has

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[1] Merewether & Stephen, Hist. of Boroughs, p. v, Introduction.
[2] Willcock, § 764.

lately appeared a necessity of putting into execution some of the ordinances, . . . and as the ordinances are dispersed among several members, a committee be appointed to collect and lay them before this Board." P. 657.

All members sat together and their votes were of equal value. They had power to add to their number from time to time, and were authorized to make all such laws and ordinances as were necessary and convenient for the government of the city, and execute them through the proper officers. They might impose fines for the violation of such ordinances. A few officers were regulated by the charter, who were not members of the corporation, *i. e.* a town clerk to be elected by the corporation, and a clerk of the markets, who was appointed by the Mayor. The Sheriff and Coroner of the county were also to act for the city, but the inhabitants of the city, "to have equal liberty with the county to elect sheriffs and coroners who shall reside within the city." The Sheriff was also Water Bailiff, and as such it was his duty to preserve the river from all encroachment, and exercise a general control over the fisheries.[1]

The Freemen.

While the corporation, in its strict legal sense, is composed of the integral parts already described, there remains yet another class which once was likewise an integral part, and in a larger sense and for many purposes is to be considered as still forming a part, viz., inhabitants entitled to the freedom, and enjoying in consequence of the incorporation certain franchises and privileges. The freedom was gained by acquiring certain qualifications or by purchase. The qualifications were that the freeman should be a free denizen of the province, twenty-one years of age and a resident of the city, possessed of a freehold estate therein, or a resident for two years, possessed of a personal estate worth fifty pounds.

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[1] Bohun's Privilegia Londini.

Women as well as men were admitted to the freedom. Besides the qualification of holding office the freemen enjoyed certain privileges, such as the right of retail trade and certain mechanical trades.

Miscellaneous Provisions.

The limits of the city were fixed as before; the ends of the streets were to remain free for the use of the people, although the corporation might improve them. The corporation was empowered to erect a gaol and courthouse, and to hold two market-days every week and two fairs annually. The city was constituted a port. Finally it was provided that the charter should be construed most favorably and beneficially to the corporation. Modelled after the corrupted constitution of the old English borough and in a period most unfavorable to municipal privileges, it is not surprising that the power granted in the charter was soon found to be entirely insufficient for the rapidly growing city. As early as 1706 it is ordered, by councils, "that a new charter be drawn containing such privileges as the present charter is deficient in and sent to the Proprietor." Nothing came of this attempt nor of subsequent ones to obtain assistance from the Legislature, although several efforts were made about 1710.

Revenue.

The inability to raise sufficient revenue for the current expenses was one of the earliest and most urgently felt deficiencies in the powers of the corporation, and affords a good illustration of how ill-adapted the antiquated system was to the necessities of a modern municipalty. Neither by the common law nor by grant of the King could there be any right of taxation, although there were certain privileges or duties of talliage. The levy of any general tax was therefore illegal and a by-law attempting to effect it, void. Such

antiquated and jealously restricted powers were ill-fitted to bear the support of streets, police, and other departments which fall within the scope of modern municipalities. In 1704, however, councils made a primitive enough attempt to levy a tax by ordering that every inhabitant keeping cows over two years old should pay twelve pence per annum, for each cow toward "the buying & keeping of the town bull;" but the cow tax seems to have been insufficient as the Mayor two years later liberally advances the money necessary "for the repairs of the fframe of the Town Bull." Fines furnished a large part of the revenue. They were levied upon persons refusing to accept office, for non-attendance of members at meetings of councils and for frequent violation of laws and ordinances. Some cases are curious; one person is fined "he being very poor and his wife like to be a charge upon the town;" and, after the sheriff's commissions are deducted, one Laughlen McClane pays a fine which amounts to £24, 5, 0, for kissing Osborn's wife,—a large sum for those days, which would lead us to infer that kissing was a luxury and women scarce. The fines indeed were frequently severe and seldom remitted. There were certain other fees, and rents for markets and wharves became yearly of importance.

The history of the erection of the market-houses was curious and led in time to bitter complaint by certain citizens against the arbitrary conduct of the corporation in erecting them in the public streets, which in truth was without shadow of right, though generally acquiesced in. Lotteries also were frequently resorted to, and pressing expenses met by subscription to be returned out of prospective receipts. But all these sources became annually more and more insufficient. The corporation performed some remarkable feats of financiering and the condition of the treasury grew more and more desperate. Loans were of course speedily resorted to. It is interesting to note one of the earliest and simplest loans made by the city in the ordinance of 1706, providing that any citizen who should advance money for repairing wharves, bridges, and streets

should be repaid out of the first money raised by the city; but there is no mention of interest. Money was also borrowed from the Legislature. The bad management of the corporation added to the financial difficulty; promissory notes were taken for fines and frequently paid in goods; rents were long in arrears and collected with difficulty; subscriptions and advances on the part of members of the corporation were made to be repaid out of the uncertain revenue of the future, and a general scheme of personal debts and promises existed.

Legislative Provisions for Independent Commissions.

The corporation, as already mentioned, never succeeded in obtaining either from the Proprietor, who indeed could not grant it, or from the Legislature, the power of taxation so urgently required; but at length the necessities of the city became so great that another plan was adopted similar to that followed in England. In the old country it had long been customary not to rely on the corporation alone for the government of the town, but additional powers were granted from time to time by local acts for various purposes, not to the officers of the corporation but to trustees or commissioners largely independent of them.

A similar course was followed by the Assembly in the case of Philadelphia, and exercised a most important influence upon the development of the City Government. The first act of this character was passed in 1712, and is the basis of subsequent legislation for the period. The cause of its passage was the great necessity of providing means to pay the public debt and defray the expense of building a workhouse, repairing the public wharves, paving and regulating the streets, and erecting markets.[1] Six assessors were to be chosen annually by the voters of the city, who, in conjunction with the Mayor, Re-

[1] Bradford's Laws, p. 102.

corder, and Aldermen, annually at the general sessions of the peace or oftener if necessary, were to calculate the amount of the public debt and what sums were necessary for repairing streets and for other purposes. They were to appropriate certain sums to certain items. Constables made the returns of the taxables, the rates were laid agreeably to the county levies, and the assessors appointed the collectors and treasurer of the fund raised; payments were made on the order of the Mayor, Recorder, and four Aldermen, and the accounts were audited by the Mayor.

Streets.

One of the most urgent reasons for the passage of this act was the condition of the streets. The first plan of caring for the roads and streets followed the ancient English law, whereby the inhabitants might be compelled to furnish labor for repairs necessary. In 1711 Councils offered the privilege of commuting services for money, but this process was ill-adapted to city needs and customs, and even after the act of 1712 things did not work satisfactorily. Ordinances were passed requiring property-owners to pitch and pave in front of their lots under penalty of having it done for them. Two serious defects existed in the system introduced by the act of 1712. The first was the absence of any head or responsibility among the officers of the corporation and the assessors. Second, the inevitable jealousies and conflicts of authority. Complaints began to be made about 1739—the taxes were badly collected. The Assembly was petitioned for relief to grant a highly characteristic remedy—the erection of still another board of elective commissioners. Such a bill actually passed the Assembly, but the corporation induced the Governor not to sign it. The circumstance is interesting, however, as showing the gradual growth of that distrust of the corporation on the part of the citizens which, as will be seen, reached such a height on the termination of the charter. The second defect was the absence of any executive head to

superintend the department of highways. In 1762[1] an act was passed with elaborate details for regulating, pitching, paving and cleaning the highways. Still another board is created of six commissioners to act with the assessors, but there is little improvement in the scheme. Under this act and supplements the streets were cared for in a fashion till the charter of 1789. These acts are full of details as to weight of wagons, speed of horses, duty of property-owners, and provide for raising money to defray the expenses of the streets, &c. The study of them is of much importance as illustrating the methods of the time and the evolution of the financial and executive policy.

Police.

Parallel with the legislation above referred to should be noted a series of acts relating to watching and lighting the city, and providing for the expense thereof. The modern policeman is a creature of statute. The ancient conservator of the peace was the watch and constable, much after the Dogberry pattern, and all citizens were bound to take their turn in keeping watch. The first watchman was appointed in 1700 by the Provincial Council, and had the whole care of the city. It was his duty to go through the city at night ringing a bell, to cry out the time of night and the state of the weather. In 1704 the city was divided into precincts. The constable was the chief officer of the watch, which was not a permanent nor paid body. Much difficulty was experienced in getting the citizens to do their watch duty, and there was evidently quite as much disposition to shirk as is now found in the jury panel. There was frequent complaint and even presentment by the grand jury. The agitation culminated in 1749—or rather in 1750—when an act was passed creating another commission, known as the City Wardens, who should have charge of lighting and watching the city, and, with the

[1] MS. Laws, chap. 480.

corporation officers, form a separate board having charge of the matter.

Water.

The water supply of this period was by means of pumps. They were originally erected and owned by private persons, but their great importance led to various ordinances for their regulation. In 1713 it was ordered that the place where a pump was to be driven "should be viewed by the Mayor, Recorder, and at least three Aldermen." Later it was provided that owners of pumps should hold the same of the corporation for the term of twenty-one years under the annual rent of one shilling. In 1756 the control of the pumps was placed in the hands of the wardens, and in the following year they were empowered to assess such householders as used the public pumps.

Poor.

The care of the poor was one of the earliest matters requiring the grant of additional powers by the Legislature. By act of 1705 the Mayor, Recorder, and Aldermen were empowered to appoint overseers of the poor; and the overseers of the poor laid and collected the tax. Later, in 1749, the overseers were incorporated and had power to levy a tax. The heavy charges incident to the support of the poor very early brought about the partial union of Philadelphia with several of the outlying districts. In 1766 Philadelphia was consolidated with the district of Southwark, the townships of Moyamensing, Passyunk, and Northern Liberties, as a poor district.

Fire Department.

While the danger of fire continually threatened the city the early precautions against it were extremely primitive. The chimneys were considered the great source of danger and people were fined for letting them take fire. From time

to time acts were passed regulating chimneys, prohibiting firing guns, &c., but there was no organization by councils of a fire department. Provisions were made for buckets, hooks, and engines, but the regulations and machinery were crude, and the service in case of fire was entirely volunteer. One hand engine was made in Philadelphia, and one in London. The formation of fire companies was from time to time suggested, and in 1736, mainly through the instrumentality of Franklin, the Union Fire Company was established.

Party Walls.

The regulation of party walls early demanded the attention of the Legislature, and in 1721 an act was passed which in its principal features is in force to-day. By this act the corporation was authorized to appoint two surveyors or regulators, to whose care the regulation of party walls and division fences was committed.

City Officers.

Besides the city officers already mentioned there were a number of minor officers appointed by the corporation such as town crier, beadle, wood corder, inspector of water courses, vendue master, appointed by the Governor, officers for measuring salt and wheat, a sealer of weights and measures, clerk of council, and a public whipper. A large part of the executive duties of the city was transacted by committees of councils which had but little resemblance to the committees of more modern times; they were merely a certain number of the members of the council to whom, from time to time, as convenience dictated, certain matters were assigned to be attended to. Thus a certain number of Aldermen were appointed overseers of wharves and other public works. Sometimes an Alderman and sometimes the Mayor is appointed city treasurer. After the manner of English boroughs Philadelphia was given representation in the Legislature, distinct from the county, in

1705.[1] It is interesting to note that the citizens voted not only for their own burgesses, but also for the representatives from the county at large.

Ferries.

By the royal charter Penn was given the use and control of ferries, and a right of ferriage was a proprietary grant. The corporation had by charter no power over the ferries and as they increased in importance they became a frequent source of contention between the corporation and the Government.

Markets.

The markets were a substantial source of revenue and were built in the centre of the street. In some cases this called forth loud protests from the property-holders, who correctly maintained that the corporation had no right to use the streets for such purpose.

Courts.

By the Charter, in accordance with the accepted idea of mediæval times when executive and legislative officers had frequently judicial duties and powers, the Mayor, Aldermen, and Recorder had given them large criminal jurisdiction to try all crimes and felonies and misdemeanors; they had also the powers of justices of the peace and authority to take cognizance of debts in actions burnell and staple. Quite early in the city's history there was an ordinance establishing a municipal court for the collection of debts under 40s. A curious petition has been found among the Penn manuscripts asking for redress in this matter, dated in 1704: "To the Hon. John Evans Governor The Humble Petition of Diverse poor Inhabitants of the City & County of Phila Humbly sheweth That whereas &c an act of assembly has constituted a justice court for collection of

[1] Chapt. 137, MSS. Laws.

small debts, notwithstanding The Mayor Recorder & Aldermen have taken it upon themselves to erect a court for determining small debts & established large ffees & compelled divers of your petitioners to pay the same extravagant ffees & some of your Petitioners not having money to pay their creditors & the said Extravagant ffees have been Kept in the common gaol several weeks until they did find a person to sell themselves unto for a term of years to pay the same & redeem their bodies to the great Ruine & Destruction of themselves & families. May it therefore please Your Honour in your usual Mercy, Clemency & Goodness The premises wholly to consider and deliver your Petitioner & all other the Poor distressed Inhabitants of this City out of the Jaws of that pernicious, devouring & Extravagant Court by taking such methods &c. and your distressed Petitioners & their poor families shall ever most heartily pray as in all humble duty bound for your Honour's health and prosperity."

Possibly as a result of this petition an act was passed May 28, 1715, repealing the city ordinance creating this 40 shillings or two weeks court, and making the jurisdiction of the Justice of the Peace exclusive and final. Except therefore as the Mayor and Aldermen sat as Justices of the Peace, the jurisdiction of the City Courts may be said to have been confined mainly to criminal matters—the County Courts being open to the civil suitor.

The ordinances for this period are, with few exceptions, lost, and there is nothing left to indicate their character except a few titles scattered about in different records. Among these may be mentioned, in order to convey an idea of the character of the municipal legislation: ordinances to restrain the number of dogs, &c., to encourage the building of a slaughter-house, a public burial-ground, to prohibit galloping horses and fast driving; regulating price of victuals, requiring the sellers of meat and grain to open the mouths of the sacks that inhabitants may see what they buy, regulating wages; to prevent frequent and tumultuous meetings of the slaves, gaming,

cursing, swearing; and finally, "inasmuch as the Recorder reports that certain persons had lately taken upon them to act plays in the city, and as he was informed intended to make a frequent practice thereof, which it was to be feared would be attended by very mischievous effects, such as the encouraging of idleness and drawing great sums of money from weak and inconsiderate persons who are apt to be fond of such kinds of entertainment, though the performance be ever so mean and contemptible," therefore an ordinance was unanimously passed requesting the Magistrates to send for the actors and to bind them to their good behavior, or to deal with them by such other means as they judge proper.

The Revolution.

The corporation came to an end by the Revolution, the last records extant bearing date of February, 1776. An act was passed enjoining all officers, such as street commissioners, assessors, &c., to exercise their duties till successors were appointed; and, March 14, 1777, a very important act was passed, providing for the election of Justices of Peace in Philadelphia by wards, reciting the various officers created to act in conjunction with the officers of the corporation, and finally vesting in the Justices of the Peace the functions theretofore exercised by the corporation.[1] Municipal affairs fared as well as they could under this meagre skeleton of government left from the wreck of the old corporation. During a part of the time the city was under military rule. The confusion and imminent dangers of war and revolution do not account, however, for this long delay of legislative action. The citizens could doubtless have had a new charter as early as 1777, as in that year an act was passed renewing the charter of the borough of Lancaster, which, having been granted by the Proprietor, was deemed cancelled by the war. In fact the old corporation had

[1] Bailley's Laws, p. 37.

turned out so inefficient and had so excited the jealousy of the people that there was a general distrust about creating another one. As early as 1773 this feeling was very strong among the citizens and gave vent, among other things to a broadside entitled "An address to my fellow citizens Friends to Liberty and Enemies to Despotism," signed Andrew Marvel, in which he charges that the corporation have exceeded their powers, and concludes by calling on the people "to lay the ax to the root of this unprofitable tree and apply to the crown for a dissolution of the charter." While the abuses in Philadelphia were never as extensive as in the towns and boroughs of England, they were sufficient to afford ample cause for the universal complaint. The condition of the revenue has been described. The minute distribution of authority and the constant distrust and jealousy between the corporation and the various boards and commissions were principal causes of the disordered condition of affairs. The streets were in a wretched condition. The magistrates and assessors were hampered by the necessity of calling a meeting of the Common Council every time a minute exigency for summons arose, however trivial. The business of the Council was conducted without system, and, in consequence of the absence of officers possessing adequate executive authority, the time was largely frittered away in trivial matters. But the leading defect that went to the root of the abuses incident to the system, and explains the distrust and dislike of the people for the municipal government was, that the government consisted of a corporate body, existing independently of the community. The corporation came to look upon itself as a separate and exclusive body, and, while it had powers and privileges within the city, in many cases all identity of interest was lost. The inhabitants at large possessed very imperfect knowledge of the proceedings of the corporation; the ordinances which were passed, as well as those repealed, were often unpublished or were printed upon loose broadsides; great ignorance prevailed as to their provisions and those of the acts of legislature and as to the extent of powers

granted by the charter. All were naturally violated with impunity. Not the least defect was that executive officers, appointed by the charter for particular functions, were regarded as a necessary part of the legislative body. This notion originated in times when the separation of constitutional authority was not understood, and when legislative, judicial, and executive functions were confounded. That the public property should be mismanaged was an inevitable result of the system. Thus, while it is almost a maxim of modern legislative assemblies of any kind that the individual members shall not profit in any manner from the public property under their control, the members of Councils were constantly making profitable contracts with individual members. On the other hand it must be said that the personnel of the corporation was generally good, and comprised many of Philadelphia's most honored names.

THIRD PERIOD, 1789-1854.

At the fall of Penn's Charter with the Revolution, when the war cloud had passed by, the evils arising from the lack of systematic government became so imminent that the memories of past grievances vanished before present necessities, and, in 1783, a petition largely signed was presented to the legislature and referred to the city members. As a result of this petition we have the second charter of Philadelphia, passed on 11th day of March, 1789. The revolution of 1776 was followed by no more radical change in state and national affairs than it introduced into the municipal history of Philadelphia. The legislative charter of 1789 created a modern municipality in sharp contradistinction to the mediæval character of the Proprietary Charter. The preamble to the new charter set out "that the government of the city, in its present form, was inadequate to the suppression of vice and immorality, to the advancement of the public health and order, and to the promotion of trade, industry and happiness, &c." The Aldermen

and Councilmen were elected by the people, the Mayor by the Aldermen, the Recorder by the Mayor and Aldermen. There was still but a single legislative chamber. The ordinances were to be published. The Mayor's Court was continued, and an Alderman's Court established. The duties, powers, contracts, and property of the City Wardens and Street Commissioners were transferred to the corporation. Such were the substantial provisions of the Act of 1789, though the full text embodies some other important details which may be considered declaratory of the general powers.

Change effected by Act of 1789.

The radical change effected by this act is one that marks the fundamental distinction between the mediæval and modern municipality; it is the total abolition of the privileged classes and of every vestige of a close corporation. The government is made essentially representative, and the administration of all local affairs is fully placed in the hands of the people through their duly elected servants. The citizens elected the Common Councilmen and Aldermen; the latter elected the Mayor from their own number; and he appointed such officers as councils thought proper to create. While the essential features of this period were fixed by the Act of 1789, the charter was changed and modified in many important particulars by various supplementary acts.[1] The bicameral system is introduced, the Aldermen, Recorder, and Mayor are stripped of all legislative prerogatives, and the two former are made appointees of the Governor, to hold office for life or good behavior. The whole legislative power of the corporation was exclusively vested in a Select and in a Common Council, who acted in separate bodies. The Mayor became elected by councils from among the Aldermen, but by Act of June, 1839, his election was conferred on the citizens.

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[1] Acts of December 9, 1789; April 2, 1790; March 8, 1792; April 4, 1796; April 11, 1799; February 18, 1805.

The records of this period are of the first importance to the student of municipal affairs of Philadelphia. We begin with the advent of Philadelphia as a modern municipality. The entire personality of the city is changed and the entire corporate functions are the direct grant of the new sovereign—the people. The city is now the place, and its people and all freemen have a direct voice in the election of the corporate authorities. It is simply impossible to attempt, in the allotted space, even a very general outline sketch of the various steps of development which took place in this and the following period. The most meagre suggestion of the skeleton of the organic law is all that is possible, so great is the mass of details which make up the municipal history of this century. We must confine ourselves to the general trend of affairs in the hope that such recital may have at least a suggestive value.

The life of the proprietary charter has been considered more fully because it was unique in its way, and an outline of its history did not involve such extensive treatment as does that of later times. From now on, the gravest problems of municipal government crowd upon the city fathers, and wherever we turn we find food and room for meditation. Great economic questions make changes in the departments essential. Gas, steam, electricity, railroads, all combine to introduce new problems and increase the machinery of government.

The Mayor.

During this period are noted repeated changes and modifications affecting the Mayor, both as to his duties and methods of election. He was elected first by the Aldermen from their own number, then by councils from the Aldermen, next by councils from the body of the freeholders, and in 1839 by the people from the people. His appointing powers were proportionally very great after 1799, for by that act he was authorized to appoint all officers created by the ordinances of

councils, but the act which provides for making his office elective by the people vests in councils the powers to provide for election or appointment of all officers theretofore appointed by the Mayor. Up to the Act of 1796 he was a component part of councils, the meetings of which he or the Recorder called. He had the same judicial duties and had general supervision. He was a paid official after 1796.

The Recorder and Aldermen retained their judicial functions but soon ceased to be parts of the legislative body, and by Act of 1796 they became appointees of the Governor.

Councils.

Under the charter of 1789 Councils consisted of the Mayor, Recorder and Aldermen, and Common Councilmen. Meetings were called by the Mayor or Recorder. It sat as one body, but, in order to make a valid ordinance, the consent of the Mayor or Recorder, and a majority of the Aldermen and also of the Common Councilmen present, was necessary. The act to alter and amend the several acts incorporating the city[1] made the most radical changes in the government, and especially affected the constitution of Councils. The bicameral system is introduced, though the members of both houses are elected on a general ticket. The meetings are made public, and the whole legislative power is vested in Select and Common Councils, of which the Mayor, Recorder, and Aldermen cease to form a part. Councils have power to provide for the election or appointment of all necessary agents or officers. This duty was performed by Councils until 1799, when the appointment of all officers created by ordinance of Councils was vested in the Mayor, excepting the treasurer, who was invariably elected by Councils. In 1839 the Mayor was divested of the general power of appointment, which was again conferred upon Councils.

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[1] Act, Apr. 4, 1796.

Assumption of Executive Power by Councils.

If there is one thing in the history of this period which stands out more clearly defined than any other, it is the trend of assumption by Councils of more and more executive duties by placing them in the hands of committees of their own body. The full fruition of this course of action was to be realized and reaped in our own day; but the policy and precedent had been fully crystallized before consolidation. No one can dispute the obvious necessity of any legislative body acting more or less by committees. The time of the whole body would otherwise be frittered away in discussion of details; but all history teaches us that the constant tendency of all legislative bodies is to absorb, when unchecked, executive and even judicial functions.

Government by Committees.

The standing Water Committee is spoken of as in existence in 1806; but it took some time for the development of the system, and not till about 1833 do we see joint standing committees fully recognized by a general ordinance as a permanent factor. Two years later it is further defined as follows: "That for the purpose of auditing and controlling the expenditure of the city and giving necessary directions to the officers of the corporation, and for the prosecution of the public works, the following committees are appointed, &c." By the ordinance of February 25, 1839, these committees were forbidden to exceed their appropriations. They were to present estimates to Councils for the expenses of their departments, exercise general supervision, examine claims, issue requisitions, &c. The Committee on Finance was then, as now, the most important of the committees; it had general charge of the fiscal concerns.

It is instructive to note the changes which took place in the scheme of executive government during this short period.

After experiencing the evils of independent boards of commissioners, power having been given the corporation to regulate its public works, it concentrated all the hitherto-scattered executive duties in one executive board—the City Commissioners. With a wise recognition of the value of a responsible and effective chief magistrate, the appointment of all city officers was vested in the Mayor; but, as time went on, all discretionary power was taken from the Commissioners and vested in the respective committees, and finally all appointing power was taken from the Mayor. While we can only conjecture the motives of this change, it is a fair presumption that it arose from the massing of details of business so that, in the absence of any well-digested system, the City Fathers turned to apparently the easiest method, the division of duties among committees; and the rudimentary principles of sound policy having been violated by the confounding of executive and legislative duties, it is not surprising that the result was weighted with great detriment to the city. An immense business like that of a city must necessarily be very complex; but it should and must be conducted on a practical, scientific basis if the best attainable results are to be hoped for, and such approximately best results cannot be attained under the faulty system of executive government by committees. It is simply a spectacle of a bundle of uncorrelated forces; and friction, incompetence, extravagance, and dishonesty might readily be expected. The answer of history does not disappoint that expectation.

Elective Franchise.

By the acts of 1789–1796 the power of electing Aldermen was vested in Freeholders and that of electing Councilmen in the Freemen; after 1796 the electoral qualification was defined by the right to vote for Senators and Representatives, and we may therefore infer that State citizenship carried with it the freedom of the city. The mediæval charter was, in theory

and practice, a grant of certain governing rights, privileges and franchises from the proprietor to a privileged class. The commonalty may have been named among the grantees, but it was only the patient ass upon whose back the burden was to be laid with no voice as to choice of drivers. In the new municipality the rights and duties of citizenship follow from existent residence. They can neither be assumed nor laid aside by present choice or refusal. The popular sovereignty as expressed by the voice of the Legislature may impose such duties as in its wisdom seems fitting and expedient; that the residents of a city shall have a voice in the execution of these duties and the appointing of the agents and officers is a well-grounded principle of our institutions, but the manner in which the voice shall be exercised is always within the control of the Legislature.

The importance of the office of City Treasurer was always recognized; all through this period he was elected by councils and supervised by the Mayor and committees.

City Commissioners.

The necessity for legislative assistance arising from the defective character of the proprietary charter has been shown. This defect in the power to administer the most pressing internal affairs was cured, in a measure, by the act of 1789, and the powers and duties of the various commissions were conferred on the corporation, which speedily elected an executive board known as city commissioners, who had charge of the public works. In it were combined the duties and powers of the assessors, street commissioners, and wardens, with a view of obtaining a more intelligent and effective service by reason of this concentration. The commissioners were not elected by the people, but appointed first by the Mayor and then by councils. The elaboration of their duties was the subject of frequent ordinances.

Highways.

In the consideration of the subject of highways for this, and in fact for every period, one principle must never be lost sight of. Streets and public squares belong, when once dedicated, to the general, rather than the local public. The municipality holds them in trust for this general public. The name may be changed, but the idea is well expressed in the old title of the King's Highway. This principle is not theoretical alone, but in its application intimately connected with the multitudinous interests dependent upon the control of the highways. The Legislature may say to a city: You shall have such power and control over your streets, and such only as we grant you—our wisdom alone has the power over the King's Highway. One must examine, therefore, not only the charter of the city, but also the pamphlet laws year by year to come to a correct understanding of the subject at any one time. The care of repairs, cleaning and paving streets was, as we have seen, under the executive charge of the city commissioners, but by 1835 the direction of commissioners in this respect was made subject to the oversight and control of the highway committee.

As early as 1807 we note the inception of what has grown into the survey department. The city was considered the cleanest in America, and both the cleaning and paving stand out in sharp contrast to the work of to-day. But it must be remembered that the compact limits of the wealthy city presented a territory which it was child's play to control and supervise as compared with the 129 square miles of the city and county of to-day.

It would be simply attempting the impossible to follow in this paper the growth of the various departments, many of which grew into permanent shape in this period. The very names suggest a chapter of useful knowledge for each topic: City Property, City Trusts, Girard Trust, Water Department, Fire Department, Gas, Railroads, Poor, Education, Police, Finance, Debt, Revenue.

The poor district was under the charge of Guardians appointed by councils, and the commissioners of the districts; this Board had general charge of the control and support of the poor, and levied a tax therefor.

The Port was under the charge of another commission, known as the Port Wardens. It came to consist of a Master Warden, appointed by the Governor, and thirteen Wardens elected by the authorities of the city and river districts.

The health of the city was the subject for the appointment of another quasi-independent commission known as the Board of Health, which, like the Guardians of the Poor, was incorporated in 1806.

The city introduced the Schuylkill water and organized the water department in 1801. A loan of $150,000 was authorized, for payment of which the entire revenue of the city was pledged. The management of the business was placed in the charge of the Mayor and water committee. The water rents were at first collected by the tax collectors, from lists furnished by the committee. Many ordinances were passed from time to time, relative to waste, injury to pipes, nuisances, making connections and disconnections. The history of the water department is one of considerable interest, and the question, as before us to-day, is full of economic interest to the student of municipal questions. For a time, before consolidation, the city supplied water to the inhabitants of the neighboring districts. Further loans were made for the purchase of the site and erection of Fairmount-works, and the protection of the works led to the purchase of Fairmount Park.

Gas.

The use of illuminating gas dates back as far as 1796, but it was not till 1835, long after it had been in successful operation in other European and American cities, that the subject was acted upon by councils. A gas company was authorized and stock taken, subject to the right of the

corporation to purchase the plant and assume the debt, which was done in 1841. Large loans were made for the purpose, and the management of the gas works was placed in the hands of trustees as security for the payment thereof. The last of these special loans was paid off as late as 1885. A certain supervision of the subject has been exercised by councils and committees, and the gas trust has finally been held to be a department of the city.

Education and Charities.

The department of Education is a creature of the State, but councils appointed school directors and voted the appropriations for support of the public schools in Philadelphia. From time to time various sums of money have been bequeathed to the city for various public purposes, notably the large bequest of Stephen Girard in 1832. These have been conducted and administered by the committee on trusts, and by commissioners of the Girard Estate.

Police.

The history of the Police Force of this period is of peculiar interest, as it was, so to speak, in a formative era. The police power is inherent in a municipal corporation, and in fact is a primary object of its existence. The exercise of this power or duty may very properly be divided, for convenience of treatment, into two distinct branches:

1st. The preservation of the public peace or safety by means of a constabulary, watch or police force.

2d. The enactment of police regulations. These regulations may be as varied and numerous as the peculiar demands of a particular locality require. Their enactment, of course, is an exercise of the legislative function; their enforcement comes within the strict lines of executive duty.

The lack of adequate protection of the peace was one of the moving causes, both of the charter of 1789 and that of 1854.

During the interregnum there was practically no police protection to the city, and even after the Act of 1789 the same radically inadequate system continued. The force, if we may use the term, consisted of the High Constable, the constables, and the watch. By the Act of 1789 the appointment and regulation of the watch were placed in the hands of the City Commissioners, who retained the same till 1833; they were to employ and pay a sufficient number of men.

This was certainly an improvement; a paid, regulated, and to some degree, disciplined body of men, was substituted for the unreliable and forced service imposed on the citizens as a public duty. The watch at night were wont to call the hours as they went their rounds, with such comments as they thought might be of interest to the wakeful citizen. In 1833 the will of Stephen Girard found public sentiment ripe for a new effort to obtain a better force. The city was divided into four districts, and the districts into three divisions, with a captain and lieutenant for each district, 24 policemen and 120 watchmen. The police served by day, the watch by night. They had the powers of constables at common law. But the condition of the force was deplorable, despite divers ordinances. In 1838, the mob attacked and burned Pennsylvania Hall, while the Mayor and entire force stood by powerless.

In 1844 the mob again ran rampant in the Native American riots; the police force and civil arm were powerless, and the action of the military served to throw fuel on the flames. There were far more dangerous elements smouldering into flame, and a more dangerous class of the community ready to burst into riot, arson, and bloodshed in 1876, when they were kept in subjection and under control by the determined attitude of Mayor Stokely and his police. The lesson of 1844 incited the legislature to action, and they passed the famous "marshal's bill," creating the police district of Philadelphia and the contiguous districts under charge of a marshal, who had the ultimate power to call out the military. Prior to the Act of 1850, the system of separate forces for closely settled

territory, divided by arbitrary lines, over which the constable or watch were unauthorized to step in enforcing the law, offered a premium to the small boy terrible and to more serious offenders, while the Northern Liberties or Southwark presented a more available temporary haven to the escaping malefactor than Canada now extends to the New York aldermen.

Finance.

A crucial test of the theoretical and practical excellence of a municipal government is always to be found in the degree of honesty, economy, and business-like administration incident to the collection and disbursement of the public funds. There is no subject more elusive and none with which the ordinary American conceives himself better fitted to grapple. The financial record of Philadelphia is hardly one of which her people can be proud, and yet it only illustrates the experience of all our great cities. Under the old charter there was no power to levy a tax. This defect was cured by the act of 1789. The financial records are instructive reading; but we cannot review them here. The leading thought is all that may be touched on. The erection of water and gas-works, and the improvement of the streets, necessitated outlays, which, for the time, were very large. As to current expenses, councils estimated the sum needed, and then directed the City Commissioners to levy and collect the tax to meet the same. We can notice the cloven hoof of the policy which has cursed Philadelphia with an enormous debt in the following Micawber-like clause of Section 3 of Ordinance, March 12, 1807: "Whereas, in the demands for the city service for the present year there is, to the amount of $18,000, for objects which are permanent improvements of or additions to the city property, and not of ordinary or common expense, and which ought, therefore, to be provided for by *money borrowed* rather than by tax on the citizens, &c.," it is enacted that the Mayor borrow, at 6 per cent., $50,000, and thereby fund the above

item and other floating debts. If one looks at the class of expenditures called permanent improvements, which Councils so glibly class among objects which should be *paid for by money borrowed and not by a tax on citizens*, we find them all to be in the nature of repairs or current expenses—things which perished in the using. Twenty years later the budget foots up to $232,380.09. The funded debt has risen from $50,000 to $1,591,000, and the floating debt is $95,100. By 1853, the year before consolidation, the annual expenditure had reached $1,005,732.83, and the interest account indicates a debt of $7,886,651.11. The tax rate is 58c. on the $100 and the assessments far below value. The floating debt grew mainly out of the deficiencies in the yearly appropriations, and a considerable portion of the funded debt owed its origin to the same source; but the principal items of the funded debt were incurred for gas, water, and subscription to railroad stock and certain so-called permanent improvements. The right to borrow money to carry out the inherent powers and to effect the express ends of a municipal corporation belongs to such a body at common law, and is only to be precluded by the statute or organic law. The right to subscribe to stock of public corporations, supposed to advance the public good, can only be conferred by the Legislature, and even the right of that body was seriously questioned when first exercised. The question was ably and exhaustively considered as a case of first impressions in our Supreme Court by one of Pennsylvania's greatest jurists, and the decision of C. J. Black settled the principle for his own State and the country, although he questioned the expediency in these words: "It may be conceded that the power of piling up these enormous debts, either on the whole people or on a portion of them, ought not to exist in any department of a free government."

It is simply astounding when the record is dispassionately examined to realize the innate folly exhibited by our fathers, men wise, prudent, and honest in the conduct of their own

affairs, when they came to the conduct of the public funds. They cut every Gordian knot. Supinely they threw themselves, a fearful incubus, on the future with its equal or greater necessities. The delusive idea of the sinking fund, doubtless borrowed from Pitt's English fiasco, was inaugurated by the ordinance of March, 1807. Certain sums were to be carried annually to the fund, the theory being that the sums so carried would, with interest compounded, aggregate to the amounts of the various loans. The proceeds of the sinking fund were to be invested in the purchase of said bonds in open market at par. The theory was beautiful, but, apart from any difficulty in keeping up the fund invested, the practice was, that, while the fathers in their wisdom with one hand carried five or seven thousand dollars annually to the sinking fund, they yearly found new objects in the current expenditures that should be provided for rather "with money borrowed than by a tax on themselves;" so with the other hand they either borrowed from the market or the sinking fund itself a loan of $10,000 or more, and blandly referred their constituents to the sinking fund which was supposed to be a kind of economic panacea for the cure of debt. When a debt came due that they could not pay, it did not worry them nor the good people of the city. The remedy was at hand; certificates of a new loan were issued. The country was new, the faith of the people in themselves and their future was boundless and they easily accepted low assessments, low tax rates, and high sounding ordinances about transfers to the sinking fund, and hugged the pleasant fiction, based on a spendthrift and specious system of bookkeeping, that the sinking fund was an actual, practical provision for the public debt. The touchstone of the fallacy is seen in the facts of history. The sinking fund did not sink; the debt increased with gigantic strides; the real collateral was the increased earning capacity of the patient ass the public, and its increased capacity for tax bearing. There can be no hope of ever paying a public debt, or of putting it on the high-road

to payment till a city earns more than it spends, or to put it in municipal language, till it raises more by taxes than it spends and borrows each year.

The ordinary subjects of taxation during the period were the persons of citizens and their estates, real and personal, these taxes being laid agreeably to the last county assessment. Collectors of taxes were first appointed by the City Commissioners, afterward by the Mayor, and finally by the Finance Committee. City and county taxes were made a lien in 1824, to be registered when unpaid. Special taxation for municipal improvements was authorized.

Review of the Third Period.

The records of the period treated above are of the first importance in the consideration of the municipal affairs of Philadelphia. In it we have noted the advent of Philadelphia as a modern American municipality. The entire personality, if we may use the term, of the city is changed; it becomes the creation of the Legislature, and every vestige of a close corporation is swept away. The city is now the place, and its inhabitants, all freemen, have a voice in the election of the municipal government.

Throughout the period is manifest the ebb and flow of two distinct lines of policy. Starting out with a remembrance of the evils of divided authority, and with a well expressed effort toward concentration of executive power and responsibility, illustrated by the large powers of the City Commissioners and Mayor, we find in the latter half of the period as steady a reversal of this policy, indicated by the absorption of all branches of executive supervision and control by the various Committees of Council. The Mayor also is gradually shorn of his various powers and duties as Executive, until he is relegated to the position he holds to-day of being simply chief of police and the figure-head of the corporation, not holding even the check of the veto power. The responsi-

bility is scattered through a dozen committees, whose personnel changes from year to year, and the executive wheels are found running by a complex system which could not fail of disastrous results even then, and still more so when carried over into the operations of the immensely extended, consolidated city and county. The finances of the city, as we see, were conducted on the promissory note basis. Despite all this, however, the city grew and prospered; large enterprises like the gas and water were undertaken and put through successfully; the town was compact and wealthy; the streets, for the time, were well-paved and clean; and the excellent grade of men who were sent to councils preserved the city from many of the evils which the system would otherwise have entailed. The questions which demanded daily attention were neither so grave nor so multitudinous as those which now force themselves on councils; the power of rings and corporations had not obtained the malignant influence which they exercise to-day, and the care of so compact a territory was not nearly so exacting as that involved by our present territory. It was in such matters as police and finance that the lack of a scientific business-like administration was most noticeable.

FOURTH PERIOD, 1854-1887.

The country adjacent to the city and beyond its prescribed limits, especially that along the Delaware known as the "Liberties," very naturally soon began to be densely settled, to assume an urban appearance, and to experience the necessities incident to a city life. This territory was divided into districts, which, beginning with Southwark, were incorporated by successive acts; the government was placed in charge of Commissioners to be elected by the citizens. Other acts incorporated the Northern Liberties, Kensington, Moyamensing, Spring Garden, West Philadelphia, &c., and in the county were various boroughs, towns and townships, such as Germantown, Frankford, Kingsessing.

So intimately connected had become the life and necessities of the most adjacent of these, especially in the matters of police, making and repairing the highways, education, care of the poor, public health, &c., that by the middle of the century many of the most active and influential of the citizens, both of the city proper and the outlying districts, conceiving that the general good would be conserved by a consolidated government, began to agitate the necessity and propriety of such an act being passed by the Legislature. The matter was discussed in the newspapers, public meetings were held, and a bill prepared and presented in the Assembly, but failed of passage owing to the opposition of the local politicians. It was finally made a special issue at the elections for the Legislatures, and a delegation was sent from Philadelphia in 1853 instructed to advocate such an act, and on February 2, 1854, the bill was passed, which was known as the Consolidation Act. The corporation takes the name of "The City of Philadelphia;" its limits are extended to take in the entire county. All the property of the various districts, townships, and old city is vested in the new corporation.

While the subject-matter assumes larger proportions subsequent to consolidation, and many very important elaborations and modifications of the executive scheme are made, yet the organic law remains unchanged, and consolidated Philadelphia is the ripened fruit of the system of the old city. No radical departure marks its advent. The Mayor performs about the same duties as he did in the latter part of the third period, except that he is now granted a veto on the acts or ordinances of councils. The legislative power remains vested in councils, but the members of both branches are elected from wards and not on a general ticket. It was made their duty to provide by ordinance for the several departments which are set out in the act, *i. e.*, law, police, finance, surveys, highways, health, city property, and such others as may from time to time be needful, and, through the Mayor and proper committees, maintain a supervision of each department, &c.

They prescribe by ordinance the number, duties and compensation of all municipal officers, may compel the attendance of witnesses upon any investigation,[1] may impeach the Mayor or other municipal officers. They also appoint the head of departments, such as Commissioner of Highways, Chief Engineer of the Water Works, Gas Trustees, Guardians of the Poor, &c., and, through their committees, keep the control of the executive functions of the municipality. Such officers as the Treasurer, Controller, Solicitor, Receiver of Taxes, are elected by the people.

It is with feelings akin to despair that we think of treating this period in the few lines remaining to us. So many, so varied, and so interesting have been the phases of municipal life which have been worked out or are now before us, that any adequate treatment would take a book, and the most condensed review would duplicate this entire sketch.

The distinctive features introduced by the act of 1854, were the remodelling of the Tax and Finance Departments. The functions of the City Commissioners are distributed to various departments, the title, however, with other duties, is continued.

City Controller.

Perhaps the most important feature of the period has been the establishment and development of the department of City Controller. The Controller was vested with all the powers of County Auditors and had supervision and control of all the fiscal concerns of all departments and officers of the city; he countersigns all warrants, and in his office all accounts, disbursements, and receipts culminate and are recorded. He makes an annual report and estimate to councils. By virtue of the new constitution of 1874, he is made a county officer, and by that and Acts of Assembly he is vested with large

[1] This power to compel attendance of witnesses did not come till within a few years.

discretionary powers that are beyond the control either of councils or the courts.

The powers of the Controller are without exaggeration enormous; he is intended, as his name implies, to control the immense financial concerns of this great city. He is literally the guardian of the city's treasury, and the efficient, fearless and honest administration of his office or the reverse is felt to the remotest branch of our complex system. No one who reads carefully his duties and his powers can fail to be impressed with the fact that he is at once the most important and most powerful officer of the city and county, as we know them, up to the passage of the new charter.

Gas and Water.

The city has continued a vendor of gas and water up to the present time, but propositions are being earnestly pressed upon councils to sell or lease one or both of these privileges, which would seem to be a most unhappy and dangerous consummation for many obvious reasons: first, because the city makes a handsome profit; and second and more especially, because the control of such immense interests, such great machines by a private corporation is extremely dangerous to the public interests. Any candid thinker must look with deepest concern upon the tremendous influence already exercised by corporations upon state, national, and municipal legislation. All particular applications are alike invidious and uncalled for here, but it is an open secret that City Councils have long been controlled or biased by certain corporate influences, and the judicial ermine has not always been spotless in this respect. If anything can give apparent cause and actual strength to the anarchist movement it will be the reckless disregard of public rights by capital massed in corporate ventures. Third, good water and abundant and cheap light are municipal necessities, of as much importance as clean, well-paved streets and adequate police protection, and should be kept within public control.

Police.

As the pressing importance of a better police force was one of the most immediate causes leading to consolidation, we are not surprised to find considerable legislation on this subject since that time. The provisions of the charter were comprehensive and the duty of organizing the department imposed on councils was imperative. The Mayor was here and here alone the responsible head; the duties of officers and the rules and regulations of the force were to be prescribed by him subject to the approval of councils. The powers under the riot act of 1850, to call upon the military, are vested in him. The executive force, exclusive of captains, lieutenants, and sergeants, is 1,200 men, not at all adequate to protect the territory which they have to cover; in some of the outlying wards a policeman is as much of a curiosity as is a well-made street.

Poor.

The property of the Guardians of the Poor was transferred to the city, and the Guardians were elected on the general ticket, but were subsequently elected by Councils. Certain wards, comprising some of the old townships and boroughs, care for their own poor and have a rebate on their taxes. Inspectors of Prisons are appointed by the courts, and the Managers of the House of Correction, established by act of 1871, are elected by councils.

Port Wardens and Board of Health.

Councils appoint the Port Wardens from duplicate nominees from the Board of Trade and Commercial Exchange. The Master Warden and Harbor Master are appointed by the Governor. The Board of Health has a mixed origin—nine are appointed by the courts, three by councils. The Health Officer, Port Physician and Quarantine Master are appointees

of the Governor. The duties of the Board of Health are of the first importance; but they have been much crippled by the surveillance and narrow construction of their powers made by councils. Markets and city property are now in charge of a department, headed by a Commissioner elected by councils, who is charged with the renting and collecting the rent of all real estate.

Fairmount Park.

Fairmount Park is a creation of this period, and owes its existence to the necessity of improving and protecting the water supply. Its present area is 2,791 $\frac{4}{10}$ acres, its extreme length 12$\frac{1}{2}$ miles, and it contains, besides the water works, many miles of drives, bridle paths, and walks. It is in charge of a Park Commission, which consists of the Mayor, Presidents of City Councils, Commissioner of City Property, Chief Engineer of the Water Department, with ten citizens appointed for five years by the courts. The Park is under their control, and they have the supervision of the expenditure of all monies, and appointment of officers, agents and employees, park-guards, &c.

Trusts and Charities.

All the duties, rights and powers of the city concerning Trusts and Charities are discharged by a Board consisting of the Mayor, Presidents of Councils, and twelve citizens appointed by the courts.

Public Buildings Commission.

By the Act of 1870 was created what is known as the Public Buildings Commission, for the erection of municipal buildings. The Board consisted of the Mayor, Presidents of Councils, *ex officio*, and certain commissioners named in the act. Vacancies are filled by the Board. It was made the duty of the Mayor, Controller, City Commissioners and City Treas-

urer, of all other officers, and of councils, to do all acts necessary to carry out the intent of this act. The commissioners had power to make contracts, employ agents, and generally to do all things necessary, and could call upon councils to lay an annual tax sufficient to meet their annual expenses. The creation of such a commission is not without precedent here and abroad, but it is not in accord with modern thought, and it is a matter of criticism and comment on the condition of affairs that the municipality has no voice in the expenditure of millions of its money for a strictly municipal purpose; and still more significant is the reflection that the work has been done better and more honestly, in all probability, than it would have been by the councils which sat for Philadelphia from 1870 to 1877.

Education.

The care of the schools is committed to school directors or local boards elected in the several wards, and a general Board of Education having charge of the finances, erection, and care of buildings which is appointed by the courts.

Relation of City and County.

By the act of 1854 the County autonomy was preserved and all county officers, such as Judges, District Attorney, Sheriff, Coroner, Register of Wills, Recorder of Deeds, Clerk of Quarter Sessions were continued, save the County Treasurer, Auditors, and Commissioners. The new Constitution transfers the City Treasurer, City Controller, City Commissioners to the class of county officers, subject to the imposition of municipal duties by councils. It was essential for the uniformity of State Legislation that the county should remain intact as it has been the unit of our State system since the time of Penn. The salaries of all county officers are fixed by the Legislature, and their duties are regulated by acts of Assembly, except such as act in a dual capacity for the county

and city when they must render certain obedience to the ordinances of councils. Vacancies are filled by the Governor.

Finance.

The administration of the finances of the city during this current period does not present altogether an exhilarating record, but it is one deserving the most careful consideration and candid treatment. The finances are the pulse of the modern city, and show whether the patient is healthy or feverish. It is very difficult to consider this topic in a few pages and do it anything like justice, and in fact we hope here simply to call attention to its leading features. The financial problem which every great city has to solve is fourfold.

1st. Estimating its taxable assets and computing the expenses for the coming year.

2d. Levying and collecting the taxes.

3d. Making and supervising the contracts and expenditures.

4th. Municipal debt; powers to create same; objects for creating it; methods looking toward its ultimate redemption.

Estimating Expenses.—Collection of Taxes.

All departments report to the Controller and he reports to the councils, which also receive through the various committees an idea of the affairs and needs for the ensuing year.

By the act of 1854, councils fixed the rate and laid the tax, and the City Commissioners levied the same. The Assessors were elective—two for each ward. The taxes were made payable to a Receiver of Taxes. Heavy discounts were allowed for prompt payment, and penalties for delay over the year, and delinquent taxes were to be liened. About 1870, owing to the careless and inefficient conduct of the Tax Department, a large amount of taxes was in arrears, which gave color to the erection of a new office—that of the Collector

of Delinquent Taxes, which was one of the most flagrant jobs of the period. The Collector had no new powers beyond those of the Receiver, and was allowed enormous fees and emoluments, amounting in one year to $147,500. In 1879 the office became the subject of investigation, and it was found that it was conducted on the basis of the grossest favoritism toward the politicians, and that there were $9,795,149 outstanding as delinquent taxes, that much money had been lost by neglect to lien, and that illegal fees and costs had been retained.

An act was immediately passed, at the instance of the interested parties, legalizing their extortions and conversions; but two years later, the people having become aroused, the office was abolished and its duties reimposed on the Receiver.

Board of Revision of Taxes.

For some time after the consolidation, this important department was made up of a Board composed of the Receiver of Taxes and City Commissioner. The Assessors were elective ward officers, and State and city taxes fell upon the same class of objects. The assessments were based on the State triennial assessments, and the jealousy which existed between the counties and the State resulted in low assessments and high rates. The primary object of the local Assessors was to make as low returns as possible, so that their districts and county should bear the least possible share of the State burden. The objection to this course was two-fold: It necessitated high tax rates, and the elasticity of valuations caused the burden to be unequally distributed, the central wards were rated higher than the outlying wards, and the generally exercised discretion of the Assessors opened the door to a vast amount of favoritism when there was no fixed standard of value. With the institution, in 1865, of the present Board of Revision, made up of three citizens appointed by the judges, more intelligent measures followed. Mr. Cochran, appointed in 1866, seeing the defects of the act

of 1865, drafted and secured the passage of the act of 1867. About this time the State relinquished to the county all real estate for purposes of taxation. The valuation through the efforts of Mr. Cochran was brought up to something like the approximate real value. In 1873 the Assessors were made the appointees of the Board, and were thus relieved of influence from their neighbors, upon whom they had to impose the most onerous of all duties, that of tax bearing and to whom they had to look for reëlection.

Under the readjustment of values the taxable assets of the city rose from $159,590,142 in 1866, to $445,563,317 in 1868, and the rate fell from $4 to $1.40. The mistake was that it was reduced too much; had it been retained at $2, or even $1.80, we should not have needed the subsequent funding of the floating debt, but councilmen appreciated the popularity of the idea involved in the fatal theory of lowest rates and highest appropriations.

Expenditures.

In addition to levying the tax and fixing the rate, &c., the power of control of the expenditure was vested in councils. They not only said how much and for what purposes money shall be spent, but they had in many instances the power of selecting the disbursing or rather executive agents, such as Chief Commissioner of Highways, &c. They could authorize loans for municipal purposes, and their power to plunge the city into debt was, until very recent years, unlimited. Certain restrictions looking toward an accurate and systematic control of affairs were indeed imposed, but all to little purpose, until the passage in 1879 of the "Pay as you go Act." As early as 1856 it was made the imperative duty of councils to state items of expenditure in making the appropriations. No debt or contract was to be binding unless authorized by law, with an appropriation previously made. The annual deficit, however, from '54 to '61, was $271,749; from '61 to '67, $593,896;

when the aggregate was transferred to the funded debt. For the decade from '67 to '77 it averaged $1,045,172 per year. In 1878 the floating debt was again funded to the amount of 10 millions, making in all $17,569,458, which have no apology for existence save the failure to collect and levy sufficient taxes to provide for the city's current expenses.

During this time the city warrants bearing 6 per cent. interest were hawked about the street and sold at a discount. The Controller countersigned, and the City Treasurer paid when and as often as they pleased, and "a friend round the corner" drove a thriving trade in purchasing warrants at a discount when there were millions in the city treasury. City warrants were also a favorite temporary investment for the banks. When the warrants were safely in the hands of "the friend," the treasurer would advertise that such and such warrants would be paid. On January 1st, 1866, the funded debt was $33,837,793.96. On January 1st, 1878, it was $61,721,541.70, and the floating debt had mounted to the prodigious figures of $11,893,810.09. The Receiver had collected $104,531,947.01; the city had received from other sources, $65,253,995.65. The expenditures had increased from ten to fifteen millions per annum, and, despite the new officer for collecting delinquent taxes, the books showed $9,495,145 delinquent in 1879. There is now rarely more than $600,000 delinquent in any one year.

"Pay as You Go" Act of 1879.

Prior to 1882, the city's money was deposited in favored banks—the People's Bank, controlled by the "Ring," with a capital of $150,000, generally having a balance of from $400,000 to $900,000 of city money. This evil was cured, in a great measure, by the ordinance of 1882, requiring the city money to be deposited among the banks in a ratio to their capital; but the great check on the carnival of extravagance and reckless disregard of law and sound policy was created in 1879 by the enactment of what is known as the "Pay as You

Go Act." The great principle of this act is that when councils have made the rate and calculated what it will yield, they are obliged to keep their appropriations within the sum so yielded.

Contracts.

When it is stated that the control of making contracts is in the hands of councils, the duty to see that they have been executed under the charge of the Controller, the consideration of the many nice questions which arise is one of practice rather than organic law, and cannot be here entered upon.

The right to file liens for municipal charges against adjacent property-owners was the creation of the Legislature; it is not otherwise inherent in a municipality. Its exercise has involved many nice points of law for the exposition of which we must refer the curious reader to the learned profession which it is hoped may make clear what the courts and lawmakers have certainly failed to do, for as to a complete knowledge of this particular branch of the law, the remark of Lord Coke applies most fittingly: "God forbid that one man should know all the law."

Sinking Fund.

The creation of the sinking fund dates back as far as 1807. Its trouble has been that it did not sink, and this has been due to two causes: defective execution of the law and the constant creation of new debt.

It was carried on the basis of the last period, and its calculations based on interest at 6 per cent. compounded, and kept closely invested in the city loan to be purchased at par. The change in the rate of interest has proved a disturbing element in this computation, and the commissioners have not compelled the city to live up to the letter and spirit of the law by appropriating yearly enough money to sink the principal in thirty years, at the reduced rate of interest. The increased price of the investments permitted them to buy. Again, instead of

paying its bills at the end of each year, the city for years was found with an annual deficiency in current expenses almost exactly equal to the appropriations to the fund. Any child could see that on this basis the city would never be out of debt; add to the above the startling factor of the funded debt doubled in ten years, and we have the problem of paying the debt reduced to a question of arithmetic like this: Given a tub half full of water with two bung holes in the side capable of discharging one gallon each per minute, a spigot that will pour into the tub one gallon in five minutes, how long will it take to fill the tub if you open both bung holes and turn on the spigot?

Happily for Philadelphia the act of 1879 stopped the yearly deficit, the manufactory of new debt has been closed and the sinking fund has of late been prudently managed. In point of fact the debt is now being reduced at the rate of nearly two millions a year. The last loan was made payable in annual series of a million a year. The credit of the city is good, and any new loans, which it may be necessary to place, to pay off the balance of loans not sunk which shall mature without complete provision, should be placed at 3 per cent. to 4 per cent. on call by lot.

It is but fair to say that while nobody believes that the city has often secured 100 cents on the dollar to represent its various loans, there yet stand to its credit certain valuable assets in addition to the securities in the sinking fund, which, while perhaps not productive in a money point of view, are yet beyond price for the healthy life of a great city. Gas, water, schools, bridges, Fairmount Park, and the war debt are their own excuse and justification. The criticism is that all these could have been had in better shape and at less cost had the finances and city government generally been honestly conducted on some scientific basis. As it is, the so-called better class of citizens must charge the profit and loss to their own culpable indifference and credulity. When the stockholders of this great corporation wake up to the fact that the

conduct of its affairs is a vast business to be conducted on business principles they will stop confusing such business interests with the Tariff and the Maine election.

The Reform Movement.

After the war began an era of wild expenditure. This was partly due to the inflated character of all expenditures, personal and public, and partly to the fact that men's minds had been so strained by the supreme question of national existence that all matters of local administration seemed trivial compared with the necessity of holding up the hands of the general government. During this period Philadelphia was largely Republican and always loyal. To many who felt strongly on this subject, party fealty became as sacred as religion. They considered the country endangered if a Democrat was elected to councils. This feeling created an atmosphere which made possible the state of affairs that followed: so-called "practical politics" were reduced to a science and what is known as "the Machine" was brought to a high state of perfection. Nothing could have been better adapted to the growth of the Machine and the solidarity of its power than the constitution of our city government. Thirty-two departments or executive arms, all independent of each other and of any head save councils, divided the management of affairs and reduced tangible responsibility to a minimum. The Gas Trustees and political leaders organized disciplined bands of followers who controlled their respective divisions and wards, and at a nod set up and pulled down Mayor, Treasurers and Controllers, Councilmen and Legislators. It was well understood that a seat in councils was worth money in those days. The public alone had no voice in the matter, though for this it was responsible, for the citizens received their party tickets and voted them with the bigoted zeal of Puritan witch-burners.

The incipiency of the modern independent movement may be assigned to the passage of the act creating the Public

Buildings Commission, and so strong was the feeling in favor of a repeal of the bill, expressed at a public meeting and elsewhere, that a majority was nearly obtained for the purpose. The few obstructing votes could have been purchased for $1,500; but the gentlemen heading the movement were not "practical" politicians, and the repeal measure failed. The next fall, $15,000 were contributed to support an independent municipal ticket, which polled only 3,500 votes, and the incipient reform movement seemed dead. Four important acts were passed, however, which made subsequent reform more possible. First, the abolition of the slip ticket—that is, voting for all officers from Governor to division officers on a single ticket. Second, the modification of the registry law, which was so arranged that the franchise was practically in the control of the machine. Third, the divorce of State and municipal elections, which were assigned to different ends of the year. Fourth, substituting salaries for fees. It is not to be inferred that during all this time there were no fearless nor conscientious men in councils. From time to time warning voices were raised, but the indifference of the public and the vices of the system were so great that corruption and mismanagement were absolutely invited guests. The public was like a deaf adder, whose ear no voice could reach. At length a feeling of unrest and revolt began to manifest itself, and about 1874 a few gentlemen in councils, representatives of both parties, became persistent in their denunciation of the existing state of things, and, under the lead of a few men who deserve well of the Republic, a movement was started that has effected incalculable good in Philadelphia. In 1877, by the aid of independent votes, a Controller was elected who, for the first time, controlled. An electric light was thrown on many abuses which had long been patent to those who had eyes to see. A halt was called to the reckless disregard of law up to that time manifested by all departments, and the public became thoroughly aroused to the situation. In 1880 the Citizens' Reform Committee of One Hundred, consisting of

well-known Republican merchants and professional men, was organized. They carried the war into Africa, fought the Ring at every point and at all points for city and county officers, for Councils and Legislature—the plan being to wait for the nominations of the two great parties and endorse one or the other of the candidates, or even nominate candidates of their own. They sent tickets to every citizen, and created the class of vest-pocket voters—men who come to the polls with their tickets made up, to the confusion of "the boys." They prosecuted election frauds, and, what is more, secured many convictions, which caused a wholesome respect for the sanctity of the ballot-box. They changed for a while the complexion of councils, elected a reform Mayor and Receiver of Taxes, caused the repeal of the infamous Delinquent Tax Collector's Bill and the equally notorious and obnoxious Recorder's Bill, and generally made a more decent observance of the law necessary throughout the city. In its nature, however, the remedy was esoteric and revolutionary, and, therefore, necessarily ephemeral. It could not retain the spoils system and thereby attract the workers. Its candidates, when elected, often betrayed it and went over to the Regulars, whom, they foresaw, had more staying qualities. Its members became tired of the thankless task of spending time and money in what must be a continuous, unending battle. The people became restive, and refused their support to what jarred on their conservative ideas and what they were pleased to call the dictation of an autocratic, self-constituted body. The cry was raised: "Who made thee a ruler and a judge over us?" They became tired of hearing Aristides called the Just.

In 1883 the committees' candidate for controller was defeated in a pitched battle, and the following spring the Reform Mayor was beaten by over 7,000 votes by the most advanced type of a machine politician, who has since been impeached by his own party in common council for pecuniary malfeasance and only saved by the postponement of trial under dictation of the leaders who are now enjoying an apparently complete restoration.

One difficulty which was unsurmountable lay in the constitution of councils; it took three years to clean them out, and then the fight had to begin over again; this fight, therefore, had to be carried on annually in thirty-one wards, and it is obvious that nothing but an organized machine could be relied on to keep it up. Between the two parties you can rally a casting vote for an occasional supreme effort, but a sustained effort to keep up the tone of a system which could only be endurable by unattainable personal perfection is obviously unscientific and inadequate. It is no discredit to the committee to say that they did the possible, but could not do the impossible. They left us valuable legacies, a greater degree of purity of the ballot-box, a greater respect for law, a sense of power in the people which ever and again upsets party expectation and defeats ring nominations, and they made the Bullitt Bill inevitable. A quarrel between the State ring and the city ring made immediately possible, in 1885, the passage of the Reform Bill which purports to be a step toward a radical cure of evils inherent in the system. These few observations on the reform movement are of necessity meagre and incomplete; its complete record would fill a volume, but we hope they will give our readers an idea of the sequence of events and the moving spirit.

One other, and that the most important, deduction is to be drawn from the history of the last decade, and that is this: errors of judgment may have been made by the best friends of better government; individuals, the most trusted, may have proved weak at critical moments; selfish and interested motives may have been invoked or may have supplied the mainspring of action to some; the cause itself has from time to time apparently collapsed; but, though individuals and particular movements may have gone down and been forgotten, there has been a steady advance toward a wider and more serious comprehension of the magnitude of the issues at stake in the progress toward the best attainable government of a great city, and step by step points have been made which are gained forever

and are contributions to the solution of the problem, not in Philadelphia alone but in the Republic at large.

The Reform Charter or Bullitt Bill.

In his annual message of January 4, 1876, Governor Hartranft called the attention of the Legislature to the evils of municipal government, concluding with this pointed language: "There is no political problem that, at the present time occasions so much just alarm and is obtaining more anxious thought than the goverment of cities."

On May 5, 1876, the Legislature passed an act authorizing him to appoint a commission to devise a plan for the government of cities. In December, 1876, eleven commissioners were appointed, and in December of 1877 they drew up an able report, and submitted a well conceived bill for the government of cities. When the bill was submitted to the Legislature, by influence of the party leaders in Philadelphia, it was sent to a committee and promptly smothered; but the seed had been sown and the experience of the ensuing eight years had its effect. In 1882, a joint committee of councils, of which S. Davis Page was chairman, prepared a bill entitled "A Method of Municipal Government for the City of Philadelphia." This bill was promptly suppressed by councils. In the session of 1883, a bill substantially the same was presented in the Legislature by Mr. W. C. Bullitt, member of the House from the eighth ward. Although the Ring was able to defeat it then, as alluded to above, a quarrel among the leaders made it possible to pass it in 1885, its operation being deferred to the spring of 1887, on the ground that the citizens should pass on the man who was to be entrusted with such vast powers. During the consideration of the bill in the House public meetings were held and the tenor and object of the measure expounded by the press, and the issue at last narrowed down to the question of deferred or immediate operation when passed.

Such very briefly is the history of the passage of the Bullitt Bill and as briefly we would summarize its provisions.

Act for the Better Government of Cities of the First Class, Passed June 1, 1886.

The Mayor is made by this act chief executive officer, and the executive power is vested in him and in certain departments. It is the duty of the Mayor to be vigilant and active in causing the ordinances of the city and the laws of the State to be enforced. He calls special meetings of councils and at least once a year advises them by annual message. He calls together once a month the heads of departments for advice, and may call on them for reports. Records are kept of such meetings. The Mayor is *ex-officio* member of all Boards. During the recess of Councils he may fill all vacancies where he has the right of appointment. He may disapprove items of appropriation bills. He may appoint without notice, at any time, three persons to audit the accounts of any department. These are the following executive departments:

I. Department of Public Safety.
II. " " " Works.
III. " " Receiver of Taxes.
IV. " " City Treasurer.
V. " " " Controller.
VI. " " Law.
VII. " " Education.
VIII. " " Charities and Correction.
IX. Sinking Fund Commission.

No new departments shall be created. Councils shall provide by ordinance for such bureaus, clerks and other subordinate officers required by departments. Each department may prescribe rules and regulations not inconsistent with law for its own government, and shall report to the Mayor

and councils when required. The Mayor may, by written order giving his reason, remove from office any head of department appointed by him.

Department of Public Safety.

This department shall be under the charge of one Director, and it includes the care, &c., of all affairs relating to police, public health, and inspection of buildings, fires, telegraph alarms, &c. The Mayor, in cases of emergency, may take command of the police and appoint special patrolmen. Members of the fire, police, and telegraph forces must be uniformed. Pensions are provided for firemen and policemen. Dismissals from police and fire forces, unless requested in writing, shall only be made by a court of trial composed of equals or superiors in same force. This court shall be appointed and sworn by the Director. The Board of Building Inspectors shall continue with the powers and duties now vested in it by law.

Department of Public Works

Shall be under charge of one Director. Its province covers the gas and water-works, grading, repairing, cleaning, and lighting of streets, the construction and repair of public buildings, bridges, public squares, real estate (except such as may be used hereafter for educational or police purposes), surveys, engineering, sewerage, drainage, and dredging, and all matters affecting the highways, footways, wharves, and docks. The powers of the Public Building Commission, however, are left untouched.

Department of Receiver of Taxes.

The Receiver of Taxes shall be the head of this department. He shall be elected and give security as now provided by law. All officers charged with the duty of collecting taxes and

funds derived from loans and licenses shall be attached to and under control of this department. The Boards of City Trusts and Revision of Taxes shall be appointed and perform their functions as heretofore.

Department of City Treasurer.

The City Treasurer shall be the head of this department, he shall be elected, &c., as now provided by law. No person is eligible unless a resident for seven years.

He shall demand and receive all moneys payable to the city, and pay all warrants duly issued and countersigned.

No money shall be drawn from the City Treasury, except by due process of law or upon warrants, signed by the head of the appropriate department and countersigned by the Controller, which shall state the consideration of the same and the particular fund or appropriation to which the same is chargeable. He shall keep distinct accounts, make daily deposits in such banks as councils may direct, and make daily reports to the Controller.

Department of City Controller.

The City Controller shall be the head of this department, and shall be elected as now required by law; he shall keep separate accounts of all items; audit all the city accounts; see that the appropriations are not overdrawn; shall not approve warrants containing items for which no appropriation was made; may require evidence of the justness of each claim; perform all duties required by law; contents of every contract involving an appropriation must be filed in his office; shall make yearly reports to councils.

Department of Law.

The head is the City Solicitor, elected for three years; he shall have as many assistants as councils may authorize; he is

the legal adviser and attorney for the city, and all its departments and officers; prepares all contracts and approves the same; makes daily returns to Controller of all moneys received by him; he approves all security and keeps a registry of all contracts, bonds, &c.

Department of Education.

This department continues as now established by law.

Department of Charities and Correction.

This department is under the charge of a President and four directors, to whom shall be confided the care and management of the charities, almshouses, hospitals, houses of correction, and all other similar institutions, the control of which is entrusted to the city.

Sinking Fund Commission

Shall continue as now established by law.

Appointments of Officers, Clerks, &c.

1. The Mayor nominates, and by and with the advice and consent of Select Councils appoints, for the term to which he has been elected, the Directors of the Departments of Public Safety and of Public Works, and the President and Directors of the Department of Charities and Correction.

2. The directors or chief officers of the departments shall appoint all subordinate officers, &c. The heads of departments, by written order, giving their reasons therefor, may remove or suspend subordinates, provided the same is not done for political reasons. Hereafter all appointments and promotions are to be made in accordance with rules providing for competitive examination of applicants.

Impeachment.

Municipal officers shall be liable to impeachment, suspension, and removal from office for any corrupt act, or practice, mental incapacity or incompetency.

Complaint in writing may be made to the Court of Common Pleas by twenty freeholders, supported by affidavits. If reasonable ground is shown, the Court to grant a rule for the accused to appear on a certain day and answer. On reasonable cause shown, a committee of five reputable citizens are to investigate. These shall be sworn and have full power to examine books, papers, and witnesses. Written report is to be made and filed with the testimony within three weeks. Supervision pending the investigation may be ordered by the Court. If the charge is sustained, Select Councils shall assemble within ten days and sit as a Court of impeachment. Accused may be heard by counsel. Prosecution to be conducted by the City Solicitor. President or associate Judge shall preside at the trial. Decision of Court is to be entered of record. If found guilty, judgment is to be entered and office declared vacant.

Contracts.

Contracts shall be in writing and made in the name of the city, and countersigned by the Controller, filed in the Mayor's office and attested copies furnished the Controller and the department charged with the work.

General Provisions.

The first election under this act shall be held on the third Tuesday in February, 1887. Prior to January 1, 1887, councils enact ordinances providing for the reorganization of the city departments so as to conform to this act. All executive powers and duties not distributed by this act shall by ordinance be assigned to the proper department. Councils are

granted full powers to compel the attendance of witnesses and the production of books and papers. There are certain other provisions for necessary and obvious requirements of administration.

Conclusion.

Such, very briefly told, is the outline of the development of the city government of Philadelphia. Many most important and interesting factors have been but scantily touched or passed by entirely, as our allotted space only admitted of an effort to give the leading thought and characteristic of each period. We have seen the city grow from a collection of caves, whose inhabitants were counted by scores, to a crowded mart, the home of a million people; from two square miles of territory to one hundred and twenty-nine; from the government of the County Court and Grand Jury, closely followed by a mediæval charter, to the advent of the latest and best thought on municipal government, as expressed in the Bullitt Bill. We have passed through periods of badly conceived and worse executed systems of government, and if the people of to-day can learn anything by the lessons of the past they ought to have arrived at the fixed conclusion that the management of the municipal affairs of a great city is a large business, and one that they cannot afford to have trifled with if they have any regard for their own interests and the fair fame of the city. It is time to have learned that being sound on the tariff is not the only qualification needed for a chief magistrate, and it ought to be well known by this time that there is no such thing as posterity in the life of a city when calculating on the day of reckoning for drafts on the future.

It is not to be expected, nor is it claimed, that the new charter presents a perfect system; but it has been founded on experience, and is in a line with the most approved development of thought in this country. It presents the Democratic idea of all power delegated by the people to its agents, and adopts the State and Federal system of a decently-endowed and responsible executive.